

1999 Senate Bill 163

Date of enactment: **April 21, 2000**

Date of publication\*: **May 5, 2000**

# 1999 WISCONSIN ACT 87

**AN ACT** to amend 15.177 (1) (a), 230.01 (2), 230.03 (2) (b), 230.04 (10) (b), 230.08 (7), 230.16 (6), 230.17 (2), 230.18, 230.19 (2), 230.25 (1n) (a) 3. and 230.25 (1n) (b) of the statutes; **relating to:** changing certain terminology in laws affecting the state civil service system (suggested as remedial legislation by the department of employment relations).

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of employment relations and introduced by the law revision committee under s. 13.83 (1) (c) 4. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

**SECTION 1.** 15.177 (1) (a) of the statutes is amended to read:

15.177 (1) (a) There is created in the department of employment relations a council on affirmative action consisting of 15 members appointed for 3-year terms. A majority of the members shall be public members and a majority of the members shall be minority persons, women and persons with a handicap disability appointed with consideration to the appropriate representation of each group.

**SECTION 2.** 230.01 (2) of the statutes is amended to read:

230.01 (2) It is the policy of the state and the responsibility of the secretary and the administrator to maintain a system of personnel management which fills positions in the classified service through methods which apply the merit principle, with adequate civil service safeguards.

It is the policy of this state to provide for equal employment opportunity by ensuring that all personnel actions including hire, tenure or term, and condition or privilege of employment be based on the ability to perform the duties and responsibilities assigned to the particular position without regard to age, race, creed or religion, color, handicap disability, sex, national origin, ancestry, sexual orientation or political affiliation. It is the policy of this state to take affirmative action which is not in conflict with other provisions of this chapter. It is the policy of the state to ensure its employees opportunities for satisfying careers and fair treatment based on the value of each employee's services. It is the policy of this state to encourage disclosure of information under subch. III and to ensure that any employee employed by a governmental unit is protected from retaliatory action for disclosing information under subch. III. It is the policy of this state to correct pay inequities based on gender or race in the state civil service system.

**SECTION 3.** 230.03 (2) (b) of the statutes is amended to read:

230.03 (2) (b) Eliminating a substantial disparity between the proportion of members of racial and ethnic, gender or handicap disabled groups either in job groups within the classified civil service, or in similar functional groups in the unclassified service, and the proportion of

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\* Section 991.11, WISCONSIN STATUTES 1997-98: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

members of racial and ethnic, gender or handicap disabled groups in the relevant labor pool.

**SECTION 4.** 230.04 (10) (b) of the statutes is amended to read:

230.04 (10) (b) The secretary shall request from each agency and each agency shall furnish to the secretary relevant racial, ethnic, gender and handicap disability information on every new employee hired by the agency including limited term, project, seasonal and sessional employees. The secretary shall maintain the data to permit a periodic review of the agency's affirmative action plan accomplishments.

**SECTION 5.** 230.08 (7) of the statutes is amended to read:

230.08 (7) EXCEPTIONAL EMPLOYMENT SITUATIONS. The administrator shall provide, by rule, for exceptional methods and kinds of employment to meet the needs of the service during periods of disaster or national emergency, and for other exceptional employment situations such as to employ the mentally handicapped disabled, the physically handicapped disabled and the disadvantaged.

**SECTION 6.** 230.16 (6) of the statutes is amended to read:

230.16 (6) If any applicant is unable to complete the examination in the form presented to the applicant due to a handicap disability, the division shall provide a reader, an appropriate place to take the examination or other similar prerequisites to ensure equality of opportunity in the examination.

**SECTION 7.** 230.17 (2) of the statutes is amended to read:

230.17 (2) If the administrator refuses to examine an applicant, or after an examination to certify an eligible, as provided in this section, the administrator, if requested by the applicant so rejected within 10 days of the date of receipt of the notice of rejection, shall give the applicant a full and explicit statement of the exact cause of such refusal to examine or to certify. Applicants may appeal to the commission the decision of the administrator to refuse to examine or certify under s. 230.44 (1) (a). Upon request of an applicant or an eligible for a civil service position who has a handicap disability, the department of health and family services shall obtain from the administrator a detailed description of all duties entailed by such position and shall determine and report its findings to the administrator, as to the ability of the applicant, or eligible, to perform the duties of such position. Such findings shall be conclusive as to the qualifications of any applicant, or eligible, so examined. A notice of rejection shall notify an applicant or eligible of his or her rights under this subsection.

**SECTION 8.** 230.18 of the statutes is amended to read:

**230.18 Discrimination prohibited.** No question in any form of application or in any examination may be so framed as to elicit information concerning the partisan political or religious opinions or affiliations of any applicant nor may any inquiry be made concerning such opinions or affiliations and all disclosures thereof shall be discountenanced except that the administrator may evaluate the competence and impartiality of applicants for positions such as clinical chaplain in a state institutional program. No discriminations may be exercised in the recruitment, application, examination or hiring process against or in favor of any person because of the person's political or religious opinions or affiliations or because of age, sex, handicap disability, race, color, sexual orientation, national origin or ancestry except as otherwise provided.

**SECTION 9.** 230.19 (2) of the statutes is amended to read:

230.19 (2) If, in the judgment of the administrator, the group of applicants best able to meet the requirements for vacancies in positions in the classified service are available within the classified service, the vacancies shall be filled by competition limited to persons in the classified service who are not employed under s. 230.26 or 230.27 and persons with the right of restoration resulting from layoff under s. 230.34 (2), unless it is necessary to go outside the classified service to be consistent with an approved affirmative action plan or program. The administrator may also limit competition for promotion to the employees of an agency or an employing unit within an agency if the resulting group of applicants would fairly represent the proportion of members of racial and ethnic, gender or handicap disabled groups in the relevant labor pool for the state.

**SECTION 10.** 230.25 (1n) (a) 3. of the statutes is amended to read:

230.25 (1n) (a) 3. Certifying up to 3 names of persons with a handicap disability.

**SECTION 11.** 230.25 (1n) (b) of the statutes is amended to read:

230.25 (1n) (b) The administrator may certify names under par. (a) 1. or 2. only if an agency requests expanded certification in order to comply with an approved affirmative action plan or program. The administrator may certify names under par. (a) 3. only if an agency requests expanded certification in order to hire persons with a handicap disability.

NOTE: Currently, in ch. 230, stats., relating to employment relations, the term "handicap" and variants of that term are frequently used in referring to persons with disabilities. However, in 1997 Wisconsin Act 112, remedial legislation requested by the department of workforce development, several references in ch. 230 were changed from "handicap" to

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“disability”, where there was a cross-reference to definitions used in ch. 230 by the department of workforce development under the Fair Employment Law in ch. 111, stats. This draft changes the remaining uses of the term “handicap” and vari-

ants of that term in ch. 230 to the term “disability” and variants of that term, for the purposes of consistency within ch. 230, stats.

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